



TOWN OF AMENIA

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Amenia Town Clerk

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TOWN OF AMENIA ZONING BOARD OF APPEALS (ZBA)

Resolution # 3 for 2015

Resolution Adopting A Negative Declaration Under the State Environmental Quality Review Act ("SEQRA") for Sign Variances for the Four Brothers Amenia Drive-In Theatre

February 16, 2015

WHEREAS, John Stefanopoulos (the "Applicant") is the authorized representative for Four Brothers Amenia Drive-In, located at 4957 NYS Route 22 in Amenia, New York (the "Property"); and

WHEREAS, the Property is predominately located in the Hamlet Mixed Use (HM) Zoning District and the Aquifer and Historic Preservation Overlay Districts; and

WHEREAS, on June 20, 2014, the Town of Amenia Planning Board (the "Planning Board") granted a Special Use Permit and site plan approval for the development of a drive-in theatre on the Property; and

WHEREAS, the Applicant subsequently constructed the drive-in theatre differently than shown on the approved site plan and without proper permits, including the addition of numerous signs not depicted in the site plan and in violation of the Town of Amenia Zoning Code ("Zoning Code"); and

WHEREAS, the Applicant has installed approximately 100 signs on the Property. Approximately 53 signs comply with the Zoning Code (or are exempt from the Code), approximately 28 signs do not comply with the Code and require area variances from the ZBA and the Applicant has agreed to remove approximately 19 signs from the Property; and

WHEREAS, to correct the violations of the Zoning Code, the Applicant submitted an application to the ZBA seeking, among other things, area and height variances and relief from Section 121-39 (Signs) of the Zoning Code in connection with twenty-eight signs located on the Property. The Applicant requested these sign variances to facilitate the development of a 1950s themed drive-in movie theatre. Specifically, the Applicant is requesting sign variances from the following sections of the Town's Zoning Code (the "Project"):

<u>Code Section</u>	<u>Number of Sign Variances Requested</u>
121-39.C(2) (internal illumination)	21
121-39.D(3)(a) (sign area)	1
121-39.D(3)(a) (sign height)	4
121-39.D(3)(c) (roof-mounted)	8
121-39.D(3)(e) (awning height)	1
121-39.D(3)(f) (height eligibility for sign area bonus)	2
121-39.D(3)(g) (cumulative sign area for parcel)	1

WHEREAS, the documents submitted to the ZBA by the Applicant consisted of, among other things: (1) a Sign Variance Application; (2) a Short Environmental Assessment Form ("SEAF"); (3) a signage site plan; (4) photographs of the signs; (5) a sign chart prepared by the Town Engineer and other documents (together, the "Application"); and

WHEREAS, after reviewing the application materials and Part 1 of the SEAF, the ZBA, acting as the lead agency, confirmed that the Project is an Unlisted action under the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the ZBA, with the assistance of its technical and legal consultants, engaged in a detailed review of the Application materials and completed Part 2 of the SEAF; and

WHEREAS, on January 12, 2015, the ZBA deemed the variance application to be complete for purposes of referring the Application to the Dutchess County Department of Planning and Development ("County Planning Department") as required by Section 239-m of the NYS General Municipal Law and thereafter caused the necessary referral to be made to the County Planning Department; and

WHEREAS, the County Planning Department reviewed the Project for countywide and intermunicipal impacts and issued a report dated _____, February 10, 2015 stating that the Project was _____; a matter of local concern; and

WHEREAS, on February 16, 2015, a properly noticed public hearing was held to gather comments on the Project and the ZBA considered the verbal and written comments submitted by the public, if any. The hearing was closed the same day; and

WHEREAS, the SEQRA regulations provide that for an Unlisted action "the lead agency making a determination of significance must: (1) consider the action as defined in sections 617.2(b) and 617.3(g) of [SEQRA]; (2) review the EAF, the criteria [for determining significance contained in SEQRA] and any other supporting information to identify the relevant areas of environmental concern; (3) thoroughly analyze the identified relevant areas of environmental concern to determine if the action may have a significant adverse impact on the environment; and (4) set forth its determination of significance in a written form containing a reasoned elaboration and providing reference to any supporting documentation"; and

WHEREAS, the SEQRA regulations also provide that "[t]o determine whether a proposed ... Unlisted action may have a significant adverse impact on the environment, the

impacts that may be reasonably expected to result from the proposed action must be compared against the criteria in [Section 617.7(c)(1) of the SEQRA regulations]"; and



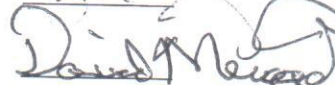

WHEREAS, after reviewing and completing Parts 1 and 2 of the SEAF and all the other information submitted to the ZBA by the Applicant and the public and after reviewing the criteria for determining significance set forth under Section 617.7(c)(1) of the SEQRA regulations, the ZBA determined that no significant adverse environmental impacts will be created by the installation of the signs and granting area variances for such signs; and

WHEREAS, as required by SEQRA, the ZBA has prepared a written elaboration as to why the signage and related area variances will have no significant adverse environmental impacts, and why the issuance of a Negative Declaration is appropriate.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The ZBA issues a SEQRA Negative Declaration for the Project concluding that the Project will not create any significant adverse environmental impacts and a draft environmental impact statement will not be prepared; and
2. The ZBA adopts and incorporates herein by reference, the attached written Negative Declaration for the Project under SEQRA; and
3. The ZBA directs that the attached Negative Declaration be filed, distributed and published as required by the SEQRA regulations – 6 NYCRR § 617.12; and

The foregoing resolution was voted upon with all members of the ZBA voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>	<u>Signature</u>
Leo Blackman, Chairman	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	
Terry Metcalfe	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
Paula Pelosi	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	
Dave Menegat	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	
Kevin Cassone	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	

Dated: February 16, 2015

Amenia, New York



Leo Blackman, Chairman

Town of Amenias Zoning Board of Appeals

Town of Amenia Zoning Board of Appeals

State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Date: February 16, 2015

This notice is issued pursuant to the State Environmental Quality Review Act, Article 8 of the NYS Environmental Conservation Law and its implementing regulations at Part 617 of the New York State Code of Rules and Regulations (collectively referred to as "SEQRA").

The Town of Amenia Zoning Board of Appeals ("ZBA"), as the lead agency under SEQRA, has determined that the proposed action described below will not have a significant adverse environmental impact and a draft Environmental Impact Statement will not be prepared.

Name of Action: Four Brothers Amenia Drive-In Theatre: Sign Variances

SEQR Status: Unlisted

Description of Action:

The applicant has developed a 1950s themed drive-in movie theatre containing approximately 100 signs on property located at 4957 Route 22 in the Town of Amenia, New York (the "Property"). Approximately 53 signs comply with the Town of Amenia Zoning Code (or are exempt from the Code), approximately 28 signs do not comply with the Code and require area variances from the ZBA and the Applicant has agreed to remove approximately 19 signs from the Property. To facilitate the theme of the drive-in theatre, the Applicant seeks area and height variances and other relief from Section 121-39 (Signs) of the Town of Amenia Zoning Code to allow 28 signs that do not comply with the Zoning Code to remain on the Property (the "Project").

Location: 4957 Route 22, Town of Amenia,
Dutchess County, New York

Reasons Supporting This Determination:

The ZBA has carefully considered whether the Project would potentially have a significant adverse impact on the environment. For the reasons set forth below, the adoption of a SEQRA Negative Declaration by the ZBA is appropriate.

1. The ZBA has given due consideration to the action as defined in 6 NYCRR §§ 617.2(b)(1) and 617.3(g).

2. The ZBA has given due consideration to the public and agency comments provided on or before the public hearing, held on January 26, 2015.

3. The ZBA has completed Parts 1 and 2 of the Short Environmental Assessment Form, and has concluded that environmental effects of the proposed action will not exceed any of the criteria for Determining Significance found in 6 NYCRR § 617.7(c), as more fully described below:

- a. No substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; no substantial increase in solid waste production; and no substantial increase in potential for erosion, flooding, leaching or drainage problems will result from the Project. The Project will not generate off-premises noise, waste, or any other intrusive condition. The majority of the signs are located more than 125 feet from road frontage, face away from Route 22 and are not visible to surrounding properties. Twenty-one signs will be internally illuminated with low wattage bulbs. These signs will only be lit for a limited period per day during six months out of the year when the drive-in is open. The internally lit signs will be turned off when the drive-in is not in use, thereby, mitigating any impacts from lights and glare.
- b. No removal or destruction of large quantities of vegetation or fauna; no substantial interference with the movement of any resident or migratory fish or wildlife species; no impacts on a significant habitat area; no substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; and no other significant adverse impacts to natural resources will result from the Project. There is no unique ecosystem affected by the Project, and no trees or other vegetation will be removed. The signs are being placed at an existing drive-in movie theatre.
- c. The Project will not create the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 6 NYCRR § 617.14(g). No such areas are located on the movie theatre site.
- d. The Project will not create a material conflict with the community's current plans or goals as officially approved or adopted. The Project allows for area, height and other sign variances for which the ZBA has considered the benefit to the Applicant, as weighed against the detriment to the health, safety, and welfare of the neighborhood and community. For the reasons set forth in the findings attached to its approval resolution, the ZBA has determined that the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community. Moreover, the drive-in theatre is a permitted recreational use under the Zoning Code subject to a special use permit granted by the Planning Board.
- e. The Project will not create the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character. Newer signs were installed over a year ago, with older signs dating back to 2005 when the on-premises ice cream and concessions stand opened. At least two of the restaurant signs on Route 22 have been in place for many years. These signs are already part of the community character. The Project is not located in a State or National Historic District; however, the Project is located in the Town's historic overlay district and complies with the district standards. Additionally, Amenia Drive-In is a themed business with the signs contributing to the overall theme and atmosphere of a drive-in theatre. The vast majority of signs at the drive-in theatre will not be

visible from the road or from surrounding property and therefore will not adversely affect community character.

- f. The Project will not create a major change in the use of either the quantity or type of energy. The Project entails the use of internally illuminated signs; however these signs will only be lit for a limited period per day during 6 months of the year when the drive-in is open. Therefore, there will not be a significant increase in the use of energy.
- g. The Project will not create a hazard to human health. None of the signs are directed at the road in a manner that would distract or confuse drivers.
- h. The Project will not create a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses. The signs compliment an existing drive-in movie theatre.
- i. The Project will not encourage or attract a large number of people to the Town of Amenia, compared to the number of people who would come to such place absent its adoption. The signs compliment an existing restaurant and drive-in movie theatre in the Town of Amenia and attract a small to moderate number of temporary visitors to the Town. This will support economic growth in the area and will not create any significant impacts.
- j. The Project will not create a material demand for other actions that would result in one of the above consequences.
- k. No cumulative adverse impacts on the environment will result from the Project.

For Further Information:

Contact Person: Leo Blackman, Chairman
Town of Amenia Zoning Board of Appeals
Address: 4988 Route 22
Amenia, New York 12501
Telephone: 845-373-8860

A Copy of this Notice Filed With:

Town of Amenia Zoning Board of Appeals (Lead Agency)
Four Brothers Drive-In Theatre (c/o John Stefanopoulos) (the Applicant)

Interested Agencies:

Town of Amenia Town Board
Town of Amenia Planning Board
Town of Amenia Code Enforcement Officer